

SENATE BILL 704

C3, C4

0lr1521
CF 0lr1520

By: **Senators Garagiola and Frosh**

Introduced and read first time: February 10, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Coordination of Benefits – Health Insurance and Personal Injury**
3 **Protection**

4 FOR the purpose of providing that certain health maintenance organization contracts,
5 health insurance policies, and policies of nonprofit health service plans are
6 subject to certain provisions of law relating to coordination of benefits with
7 personal injury protection coverage under motor vehicle liability insurance
8 policies; prohibiting the contracts and policies from containing a provision that
9 requires certain personal injury protection benefits to be paid before benefits
10 under the contracts and policies; defining the term “insured” or “named insured”
11 for purposes of certain provisions of law relating to personal injury protection
12 coverage to include an individual entitled to hospital, medical, or surgical
13 benefits under certain health insurance policies or contracts; providing for the
14 application of this Act; and generally relating to coordination of health
15 insurance and personal injury protection benefits.

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 19–713.1(d)
19 Annotated Code of Maryland
20 (2009 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 19–713.1(e)
24 Annotated Code of Maryland
25 (2009 Replacement Volume)

26 BY repealing and reenacting, without amendments,
27 Article – Insurance
28 Section 15–104(b)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2006 Replacement Volume and 2009 Supplement)

3 BY adding to
4 Article – Insurance
5 Section 15–104(d)
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2009 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Insurance
10 Section 19–507
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2009 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Health – General**

16 19–713.1.

17 (d) Notwithstanding § 19–701(g)(3) of this subtitle, a contract between a
18 health maintenance organization and its subscribers or a group of subscribers may
19 contain a provision allowing the health maintenance organization to be subrogated to
20 a cause of action that a subscriber has against another person:

21 (1) To the extent that any actual payments made by the health
22 maintenance organization result from the occurrence that gave rise to the cause of
23 action; or

24 (2) For a nonprofit health maintenance organization that exclusively
25 contracts with a group of physicians to provide or to arrange for the provision of health
26 care services for its enrollees, for any service provided by the health maintenance
27 organization as a result of the occurrence that gave rise to the cause of action, per the
28 fee schedule established by the nonprofit health maintenance organization.

29 (e) **(1)** Subsection (d) of this section does not allow a contract between a
30 health maintenance organization and its subscribers or a group of subscribers to
31 contain a provision allowing the health maintenance organization to recover any
32 payments made to a subscriber under [a personal injury protection] **THE PERSONAL**
33 **INJURY PROTECTION COVERAGE OF A MOTOR VEHICLE LIABILITY INSURANCE**
34 policy.

35 **(2) A CONTRACT BETWEEN A HEALTH MAINTENANCE**
36 **ORGANIZATION AND ITS SUBSCRIBERS OR A GROUP OF SUBSCRIBERS:**

1 **(I) IS SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THE**
2 **INSURANCE ARTICLE; AND**

3 **(II) MAY NOT CONTAIN A PROVISION THAT REQUIRES**
4 **PERSONAL INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY**
5 **INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE CONTRACT.**

6 **Article – Insurance**

7 15-104.

8 (b) In accordance with regulations that the Commissioner adopts, the
9 Commissioner shall allow health insurance policies and policies of nonprofit health
10 service plans to contain nonduplication provisions or provisions to coordinate coverage
11 with:

12 (1) other health insurance policies, including commercial individual,
13 group, and blanket policies and policies of nonprofit health service plans;

14 (2) subscriber contracts that are issued by health maintenance
15 organizations; and

16 (3) other established programs under which the insured may make a
17 claim.

18 **(D) HEALTH INSURANCE POLICIES AND POLICIES OF NONPROFIT**
19 **HEALTH SERVICE PLANS:**

20 **(1) ARE SUBJECT TO THE PROVISIONS OF § 19-507(C) OF THIS**
21 **ARTICLE; AND**

22 **(2) MAY NOT CONTAIN A PROVISION THAT REQUIRES PERSONAL**
23 **INJURY PROTECTION BENEFITS UNDER A MOTOR VEHICLE LIABILITY**
24 **INSURANCE POLICY TO BE PAID BEFORE BENEFITS UNDER THE POLICIES.**

25 19-507.

26 **(A) IN THIS SECTION, “INSURED” OR “NAMED INSURED” INCLUDES AN**
27 **INDIVIDUAL ENTITLED TO HOSPITAL, MEDICAL, OR SURGICAL BENEFITS UNDER**
28 **A HEALTH INSURANCE POLICY OR CONTRACT ISSUED BY:**

29 **(1) AN INSURER;**

30 **(2) A NONPROFIT HEALTH SERVICE PLAN; OR**

31 **(3) A HEALTH MAINTENANCE ORGANIZATION.**

1 **[(a)] (B)** The benefits described in § 19–505 of this subtitle shall be payable
2 without regard to:

3 (1) the fault or nonfault of the named insured or the recipient of
4 benefits in causing or contributing to the motor vehicle accident; and

5 (2) any collateral source of medical, hospital, or wage continuation
6 benefits.

7 **[(b)] (C)** (1) Subject to paragraph (2) of this subsection, if the insured
8 has both coverage for the benefits described in § 19–505 of this subtitle and a
9 collateral source of medical, hospital, or wage continuation benefits, the insurer or
10 insurers may coordinate the policies to provide for nonduplication of benefits, subject
11 to appropriate reductions in premiums for one or both of the policies approved by the
12 Commissioner.

13 (2) The named insured may:

14 (i) elect to coordinate the policies by indicating in writing which
15 policy is to be the primary policy; or

16 (ii) reject the coordination of policies and nonduplication of
17 benefits.

18 **[(c)] (D)** An insurer that issues a policy that contains the coverage
19 described in § 19–505 of this subtitle may not impose a surcharge or retier the policy
20 for a claim or payment made under that coverage and, at the time the policy is issued,
21 shall notify the policyholder in writing that a surcharge may not be imposed and the
22 policy may not be retiered for a claim or payment made under that coverage.

23 **[(d)] (E)** An insurer that provides the benefits described in § 19–505 of this
24 subtitle does not have a right of subrogation and does not have a claim against any
25 other person or insurer to recover any benefits paid because of the alleged fault of the
26 other person in causing or contributing to a motor vehicle accident.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
28 all policies, contracts, and health benefit plans issued, delivered, or renewed in the
29 State on or after October 1, 2010.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2010.